

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

WILDEARTH GUARDIANS,	)	
	)	
Plaintiff,	)	Case No. 1:22-cv-914-JFR-GJF
	)	
v.	)	
	)	
UNITED STATES FISH AND WILDLIFE	)	
SERVICE, UNITED STATES BUREAU OF	)	
RECLAMATION,	)	
	)	
Federal Defendants,	)	
	)	
and	)	
	)	
MIDDLE RIO GRANDE CONSERVANCY	)	
DISTRICT,	)	
	)	
Intervenor-Defendant.	)	
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**JOINT MOTION TO EXTEND STAY OF ALL PROCEEDINGS**

Plaintiff WildEarth Guardians, Federal Defendants U.S. Fish and Wildlife Service and U.S. Bureau of Reclamation, and Intervenor-Defendant Middle Rio Grande Conservancy District (the “Parties”) move this Court to enter an order continuing to stay the proceedings in this matter. In support of this Motion, the Parties state the following:

1. This matter is before the Court on Plaintiff WildEarth Guardians’ (Guardians) Petition for Review of Agency Action (Dkt. 1), in which Guardians seeks declaratory and injunctive relief regarding Federal Defendants’ 2016 Biological Opinion for Middle Rio Grande water operations. Federal Defendants’ Response was originally due on February 6, 2023.

2. The Parties have been engaged in settlement discussions to resolve the case since 2021, following Guardians' 60 days' notice of intent to sue the Parties for violations of the Endangered Species Act.

3. On February 6, 2023, the Court issued an Order Granting the Parties' Joint Motion to Stay Proceedings (Dkt. 8). The Court ordered the case stayed through May 1, 2023, and further ordered that on that date the Parties shall file a joint status report informing the Court on the progress of settlement discussions and either requesting that the Court continue the stay or requesting that the Court lift the stay and allow the Parties to submit a case management plan. *See id.*

4. On April 27, 2023, the Court issued an Order Granting the Parties' second Joint Motion to Stay Proceedings (Dkt. 10). The Court ordered the case stayed through July 31, 2023, and further ordered that on that date the Parties shall file a joint status report informing the Court on the progress of settlement discussions and either requesting that the Court continue the stay or requesting that the Court lift the stay and allow the Parties to submit a case management plan. *See id.*

5. On August 1, 2023, the Court issued an Order Granting the Parties' third Joint Motion to Stay Proceedings (Dkt. 13). The Court ordered the case stayed through October 31, 2023, and further ordered that on that date the Parties shall file a joint status report informing the Court on the progress of settlement discussions and either requesting that the Court continue the stay or requesting that the Court lift the stay and allow the Parties to submit a case management plan. *See id.*

6. Since then, the Parties have continued to engage in productive settlement discussions. The Parties have exchanged written proposals and held several in-person meetings

over the last several months. These meetings have included multiple larger group meetings, focused on discussing resolution broadly, with numerous participants and subject-matter experts from each represented entity present. The Parties have also held several additional technical meetings to discuss discrete, substantive issues related to Plaintiff's concerns. The Parties continued holding additional meetings through the summer.

7. The Parties have temporarily suspended settlement discussions to accommodate unplanned parental leave by the WildEarth Guardians' staff member with decisionmaking authority for the organization in this matter. That staff member will be on leave through October 31, 2023. The Parties have already committed to reconvening in November to resume discussions. Because the Parties are unable to meet in September and October, the current stay of the case through October 31, 2023, will need to be extended.

8. The Parties believe these discussions continue to be fruitful and productive in helping to narrow the issues and move toward potential resolution of this case. The Parties have also identified important non-Party stakeholders whose views and input may aid discussions, and have taken steps to engage these stakeholders in the discussions.

9. As the Parties plan to continue meeting to discuss settlement, they believe that preparation of a response to the Petition for Review, preparation of the administrative record, any challenges to that record, future briefing on the merits, and other litigation activities would not be an efficient use of resources and would not be in the Parties', or this Court's, best interests.

Therefore, the Parties respectfully request that the Court continue to stay all deadlines and proceedings in this case for 90 days beyond the October 31, 2023, stay extension, through January 31, 2024, by which date the Parties will file a joint status report informing the Court on the progress of settlement discussions and either requesting that the Court continue the stay or

requesting that the Court lift the stay and allow the Parties to submit a case management plan.

Respectfully submitted on this 28th day of September 2023.

/s/ Samantha Ruscavage-Barz

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*Counsel for Intervenor-Defendant Middle Rio Grande Conservancy District*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 28th day of September 2023, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ Samantha Ruscavage-Barz